IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 390 OF 2007

in

CRIMINAL APPEAL NO. 299 OF 2007

LAXMIKANT NIVRUTTI KHEDEKAR & Anr. .. Applicants

Vs.

THE STATE OF MAHARASHTRA .. Respondents

Mr. Kuldeep S. Patil for the applicants.

Mrs. M.H.Mhatre, APP, for the State.

CORAM: J.H.BHATIA,J.

DATE : 21st June, 2007

P.C.

1. Heard Mr. Patil, learned Counsel for the applicants and Mrs. Mhatre, learned APP, for the State.

2. The present applicants, who are original accused Nos. 2 and 3, were prosecuted along with accused No.1 - Santosh for the offences punishable under Sections 489A, 489B 489C, 489D and 489E of I.P.C. They were convicted for all the charges for the offences under Sections 489A, 489B, and 489D and awarded R.I. for ten years

with fine of Rs.2,000/-. For the offence under Section 489C of I.P.C., they were awarded R.I. for seven years with fine of Rs.2000/- and under Section 489E, they were sentenced to payfine of Rs.100/- only. The accused Nos. 2 and 3 have preferred Appeal and by this Application, they seek bail pending the Appeal.

3. According to the prosecution, information was received that on 11.7.2005, some persons in a Maruti Car were coming with fake currency notes and accordingly Police patil went to check the vehicle when one Maruti Van bearing No. MH-12/BG-7167. The police found 3 suspected persons in the Van. They were accused No.1 to 3. During the personal search of all these persons, 74 fake currecny notes of the denomination of Rs.500/- were found, 20 were in possession of accused No.1 -Santosh, 35 were with accused No.2 Laxmikant and 19 were with accused No.3 Shekhar. During the search of the car, a scanner, printer, along with power adopter and a black coloured bag and 2 papers having print of currency notes of Rs.500/- and Rs.1000/- were found.All these articles were seized under a panchnama. Later on, it was confirmed that notes found with the accused were counterfeit notes. According to the prosecution, these persons had also purchased certain articles from market from different vendors and had given the counterfeit notes to those vendors for payment of price. Accused No.1 -Santosh allegedly confessed before the police that

he had made payment of counterfeit notes to four diffetrent vendors and accordingly he took the police and panchas to those four persons and accordingly the fake currency note were recovered.

4. Mr. Patil, learned Counsel for the accused/applicants contends that as per the evidence on record, only accused NO.1 - Santosh had actually used counterfeit notes for making payment of price to different vendors and out of those four vendors, three did not identify even accused No.1 - Santosh. He points out that there is no evidence on record to show that the present applicants, who are ccused No.2 and 3, had either counterfeited notes or used them as genuine notes or that they were found in possession of any instrument or material for forging or counterfeiting currency notes. He contends that if the prosecution evidence is to be believed, at the most, the applicants can be held guilty under Section 489C of I.P.C. which is a bailable offence. It is not necessary to go into the minute details and merits of the evidence. However, the arguments advanced by the learned Counsel for the applicants cannot be outright rejected. The offence under Section 489C carries a maximum sentence of imprisonment of seven years and the trial Court had awarded the same. It appears that the applicants are in custody since 11.7.2005 i.e. almost for two years.

5. Taking into consideration the evidence on record and the arguments advanced by the learned Counsel for the paries, I find that the present applicants may be granted bail pending the Appeal.

6. The applicants be released on their executing P.R. Bond of Rs.25,000/- each with surety in the like amount subject to their depositing the fine amount with condition that they shall report at the Police Station,Barshi on first Monday of every month till the disposal of their Appeal.

(J.H.BHATIA,J.)